IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29/10/2004

CORAM

THE HONOURABLE MR. JUSTICE V.KANAGARAJ

W.P.NO.9614 OF 1997

Thanjai Tamil Palkalaikazhaga
Aasiriyar Peravai, reptd. By its
General Secretary
Dr.K.Ravindran
Tamil University
Thanjavur 613 005 ..Petitioner

-Vs-

1.Tamil University,reptd.by its
Registrar and Secretary of
the Syndicate
Tamil University Campus
Thanjavur 613 005

2.Thiru S.Subramanian
Asst. Director (Reader Scale)
Department of Adult Education
Tamil University
Thanjavur 5

3.Thiru N.Athiyaman
Reader, Dept. of Archaeology
Tamil University
Thanjavur

4.Thiru S.Baskaran
Senior Programmer (Reader Scale)
Computer Centre
Tamil University
Thanjavur

5.Thiru P.Sadasivam
Senior Programmer (Reader Scale)
Computer Centre
Tamil University
Thanjavur 613 005 ..Respondents

This Writ Petition has been filed under Article 226 of the

Constitution of India praying for the issue of a writ of Certiorari calling for the records of the first respondent herein relating to the impugned resolution No.97.06(1) dated 21.1.1997 of the Syndicate and the consequential orders of promotion independently issued by the 1st respondent/Registrar in Proceeding No.ROC.3178/A1/95 dated 26.1.97 in favour of the Respondents 2 to 5 herein, quash the said resolution and the orders of promotion as illegal.

!For petitioner : Mr.S.T.S.Murthi

^For respondent No.1:No appearance

For respondent Nos.2 & 5 : Mr.R.Yashod Vardhan

For respondent No. 3 : Mr.Velusami

For respondent No.4: Mr.M.S.Sukumar

:ORDER

The Writ Petition is filed praying to issue a writ of Certiorari calling for the records of the first respondent herein relating to the impugned resolution No.97.06(1) dated 21.1.1997 of the Syndicate and the consequential orders of promotion independently issued by the 1st respondent/Registrar in Proceeding No.ROC.3178/A1/95 dated 26.1.97 in favour of the Respondents 2 to 5 herein, quash the said resolution and the orders of promotion as illegal.

2.The facts of the case as narrated by the petitioners herein are that the petitioner association is a registered Association; that due to the stagnation of promotion in the cadres of Reader, Senior Lecturers in the Academic Wing of the University even though they were possessing higher educational qualifications and long period of service, the University/1st respondent had introduced a scheme called Career Development Scheme (hereinafter referred to as the scheme)for the University teachers; that the eligibility condition for promotion of the Lecturers working in the University is that those who are all possessing Ph.D., or M.D.,qualification and also who have completed 8 years of service should be considered for being promoted as Readers; that their experience after completing Ph.D., as Post-Doctoral experience may be taken into consideration upto two years; that the qualification for Readers for being promoted as Professors is Ph.D.,or M.D., degree; that the University also extended the above benefits to the persons who have not possessed Ph.D.,degree but having M.Phil degree and in that case, their period of experience as Lecturer is prescribed as 10 years with a condition that he should acquire Ph.D., degree within a period of three years failing which he will not be eligible to draw future annual increments. The relaxation provision in the educational qualification has not been provided in the rules framed under the Scheme.

3.It is stated that the 2nd respondent - S.Subramaniam was working as Project Officer in the Adult Education Department and he possessed M.A.,degree

only and the 3rd respondent - M.Athiyaman was appointed as Diver in the Department of Underwater Archaeology and he possessed only B.Tech., degree and subsequently, he acquired M.Tech., degree; that since they have not possessed the prescribed qualification as per the Scheme, the Selection Committee rejected their names; that the 4 th respondent - S.Baskaran was initially appointed temporarily as a Compilator in the Computer Centre of the University and he possessed M.Sc.,(Maths) degree along with two years experience in a private concern in computer operation and now, he was promoted as Senior Programmer (Reader Scale) by violating the rules and regulations of the scheme; that, the 5th respondent - P.Sadasivam was appointed as Programming Assistant with effect from 18.7.1986 and he possessed the qualification of M.Sc.,(Statistics) with P.G.diploma in computer Education besides one year experience in a private concern was promoted as Computer Programmer (Reader scale); the impugned promotions have been made violating the rules and regulations and the Government orders without having due regard to the educational qualification, service experience and academic excellence of the members of the petitioner association under the Scheme; that the staff working in Computer Centre are not academic staff of the University nor discharging any academic nature of work in the university; that the overall seniority of the members of the petitioner association is affected; the Norms Committee constituted for making a uniform policy for promotion rejected the names of the 2nd and 3rd respondents since they do not possess M.Phil., or Ph.D., degree; that the names of the 2nd and 3rd respondents have been again considered by the Syndicate of the 1st respondent University in Resolution No.96.53 dated 3.8.96 with a direction to refer the matter again to the Norms Committee; that the Syndicate specifically justified the name of the 2nd respondent can be considered for Reader post from the date of his acquiring Ph.D. Degree; that later on even though the 2nd respondent has not possessed the requisite educational qualification of M.Phil., or Ph.D., degree, by a subsequent resolution in No.97.06 (1) dated 21.1.97 he was straightaway recommended for promotion as Reader; that on the basis of the said resolution, the first respondent by proceedings dated 26.1.1997 promoted the 2nd respondent as Assistant Director (Reader Scale) in the Adult Education Department with effects from 1.10.96; that the Norms Committee which has rejected the names of the 2nd and 3rd respondents for promotion as Readers further recommended the 2nd and 3rd respondents for promotion as Readers and has gone one step further recommending the name of 2 nd respondent for promotion As Assistant Director (Reader Scale); that based on the Norms Committee report the Syndicate of the first respondent University promoted the 3rd respondent as Reader in the UnderWater Archaeology Department; that the respondents 4 and 5 have been promoted as Senior Programmer in the Reader Scale; that even though the respondents 2 to 5 have not possessed M.Phil., or Ph.D.,degree they have been promoted as Readers and they have become eligible to be considered for the overall academic seniority in the university; that their promotion is illegal, unlawful, contrary to constitutional right guaranteed to the petitioner's rights; that the respondents 2 to 5 have not satisfied the educational qualification of M.Phil., or Ph.D., Degree; that they have not possessed the experience required under the scheme; that though the Norms Committee as well as the Syndicate had earlier rejected the proposal for including the names of the respondents 2 to 5 for being considered for promotion, under the scheme, the very same Norms Committee and the Syndicate

adopted a different yardstick of U.G.C guidelines prescribed for the purpose of direct recruitment; that the University has also violated all the rules framed under the Service jurisprudence and granted concessions to the respondents 2 to 5 and in the case of Dr.N.Joseph the rules were implemented strictly and he was granted promotion with effect from 17.11.96 only after his completion of eight years of service; that though Dr. Joseph has served in the University after obtaining a doctorate degree as Post-Doctoral Fellow but that service was not taken into consideration for reckoning the period of 8 years of service even though specific provision was made in the eligibility rule, the University granted many concessions to the respondents 2 to 5 and hence, the present Writ Petition.

4.The learned counsel for the petitioner would submit that the eligibility condition for promotion of the Lecturers working in the University is that those who are all possessing Ph.D., or M.D., qualification and also who have completed 8 years of service should be considered for being promoted as Readers; that their experience after completing Ph.D.,as Post-Doctoral experience may be taken into consideration upto two years; that similarly, the qualification for Readers for being promoted as Professor prescribed are Ph.D., or M.D., Degree; that the respondents 2 and 3 though they are working in academic rank, they are not possessing required qualification; that even though they are not possessing the qualification prescribed, they have been given promotion as Assistant Director (Reader Scale) and Reader respectively; that the respondents 4 and 5 have been promoted as Senior Programmer in the Computer which is purely a non-academic side post and the same was objected by the Tamil Nadu University Teachers Association.

5.The learned counsel for the petitioner would further submit that the respondents 2 to 5 have not satisfied the further experience like experience in academic activities, research experience, presentation of paper in the Seminar or publishing Research work in renowned journals etc as prescribed under the scheme and hence, the first respondent has clearly violated the rules and regulations provided for being considered for promotion.

6.The learned counsel for the petitioner would also submit that the 1st respondent has violated the rules framed under the service jurisprudence and granted concessions to the respondents 2 to 5; that in the case of one Dr.N.Joseph benefits were granted only with effect from 17.11.96, namely on his completion of 8 years of service and his service as a Post-Docotral Fellow in the University after obtaining a Doctorate degree was not taken into consideration for reckoning the period of 8 years of service as Lecturer; that on the basis of the aforesaid grounds, the learned counsel would conclude saying that the promotion given to the respondents 2 to 5 by the 1st respondent has to be set aside.

7.The first respondent University filed the counter denying the allegations in the affidavit filed in support of the above writ petition and they would further submit that the 1st respondent syndicate is a supreme body consisting of eminent scholars and administrators and the same has every right to discuss and decide the matters like promotion of candidates of various

cadre, Senior Lecturers etc; that with regard to 2nd respondent - C.Subramanian, since he has submitted his thesis for Ph.D.degree and was awaiting for the result, the Selection Committee selected him for promotion as Assistant Director (Reader); that with regard to 3rd respondent - N.Adiyaman, the Syndicate in its meeting held on 6.12.96 decided that if the Norms Committee would consider his educational qualification as fit for promotion and recommend for his promotion, then the Syndicate will consider it; that the Norms Committee in its meeting held on 21.1.97 considered the qualification of the 3rd respondent as equal to the post of Associate Professor; that as per the AICTE norms, the qualification for the post of Associate Professor (Reader) is - first Class Masters degree in appropriate branch Engg/Tech.and the experience is - 5 years experience in teaching/Industry research; that as per the UGC Guidelines the qualification prescribed is - Good academic record in the subject of social science/social work/humanities/Education/Science/Home Science and a candidate without a Ph.D. Degree shall possess a high second class master's degree and second class in the Bachelor's degree and the experience is - about five years of field work/teaching or research in a subject having bearing on Adult/Continuing extension/Community/Nonformal education or community development; that since the 2nd respondent - C.Subramanian has M.A. first class degree and has got 10 years experience as Project Officer ( Senior Lecturer Scale) the Committee recommended to consider him for promotion as Assistant Director (Reader Scale); that since the 3rd respondent - N.Adiyaman has M.Tech. degree and has got 9 years experience as Lecturer, the Committee recommended to consider him for promotion as Reader; that with regard to 4th respondent - S.Baskaran and 5th respondent - P.Sadasivam, the Selection Committee constituted for promotion under the scheme referred the matter to the Syndicate and the Syndicate in its meeting held on 6.12.9 6 if the Norms Committee would consider their educational qualification fit for promotion and recommend their promotion, then the Syndicate will consider it; that the Norms Committee in its meeting held on 21.1.97 considered the qualification of 3rd and 4th respondents and recommended them for promotion as Reader and they were promoted under the Scheme; that the respondents 2 to 5 are doing individual research in their respective fields and the 1st respondent has not violated the rules or the regulations and hence, the Writ Petition is liable to be dismissed.

8.The learned counsel for the 2nd respondent would submit that the petitioner - Thanjai Tamil Palgalaikalaga Aasiriyar Peravai has no locus standi to file the writ petition and only the affected individual can approach the Court; that the membership of the association consists of 15 members out of which 5 are academicians and the rest are non-academicians and hence, their contention is untenable.

9.The learned counsel for the 2nd respondent would submit that the the 2nd respondent holds post graduate degree in Social Work and Sociology; that he has participated in different seminars, workshops and training courses also; that since 1.10.96 he has been working as an Assistant Director in the cadre of Reader; that since the 2nd respondent possesses the requisite qualification and experience for the post of Assistant Director as prescribed by U G C, the promotion of the 2 nd respondent as Assistant Director is not contrary to rules; that the Selection Committee under the Career Development

Scheme after considering the qualification and experience of the 2nd respondent recommended for promotion; that the 2nd respondent has registered for Ph.D. and has submitted his thesis; that at the time of promotion in January 1997, the second respondent has completed the doctoral thesis; and hence, it is not contrary to the rules.

10.In reply to the submissions made by the learned counsel for the 2 nd respondent, the learned counsel for the petitioner would submit that the Career Development Scheme is for University Teachers; that they have prescribed norms with regard to eligibility; the sanction of promotion under the Career Development Scheme was introduced by U.G. C. on fulfilling the eligibility conditions; that since the respondents 2 to 5 have not possessed the eligibility conditions their promotion shall be curtailed because of illegal approach.

11.Heard the learned counsel for the petitioner and the learned counsel for the 2nd and 3rd respondents. No appearance has been made on behalf of the first respondent/University but counter has been filed on behalf of the first respondent. The learned counsel appearing for the third respondent has adopted the counter filed by the 2nd respondent.

12.In consideration of the facts pleaded having regard to the materials placed on record and upon hearing the learned counsel for the petitioner and the respondents
2 and 3 as well with no representation made on the part of the 1st and 5th respondents, what comes to be known is that the petitioner which is the Thanjai Tamil University Teachers Association on behalf of its members has filed the above Writ Petition challenging the resolution No.97.06(1) dated 21.1.97 of the Syndicate and consequential orders of promotion issued by the first respondent, Registrar dated 26.1 .97 in favour of the respondents 2 to 5 and seeking to quash the resolution and the orders of promotion as illegal.

13.According to the petitioner association by means of a scheme formulated by the first respondent University called Career Development Scheme on ground of stagnation of promotion in the cadres of Reader, Senior Lecturers etc.,in spite of their higher educational qualification and long period of service fixed the eligibility condition for promotion of Lecturers possessing Ph.D., or M.D., or on completion of eight years service for being considered for promotion as Readers, further fixing the qualification for Readers for being promoted as Professors as Ph.D. or M.D. or even M.Phil degree with 10 years experience and on condition to acquire Ph.D. degree within three years.

14.It is the further case of the petitioner association that the second respondent who was a Project Officer in the Adult Education Department and possessed of M.A.degree only and the third respondent who was a Diver in the Diploma of Under-Water Archaelogy is possessed of only B.Tech degree subsequently acquiring M.Tech degree and without possessing the prescribed qualification as per the scheme. Likewise, the 4th respondent who was a Compilator initially in the computer centre possessed of M.Sc.(Maths) degree with two years experience in computer operation and the 5th respondent a Programming Assistant with M.Sc. (Statistics) and P.G.Diploma in computer

education with one year experience in a private concern; that the Norms Committee substituted for making a uniform policy for promotion rejected the names of the 2nd and 3rd respondents for promotion since they did not possess M. Phil and Ph.D degree; but the Syndicate recommended the name of the second respondent for being considered for Reader and since he did not possess the requisite qualification of M.Phil., or Ph.D. by subsequent resolution dated 21.1.97 he was straightaway recommended for promotion as Reader, on this basis the first respondent as per its proceedings dated 26.1.97 promoted the second respondent as Assistant Director in the Adult Education Department with effect from 1.10.96; likewise in spite of the rejection by the Norms Committee, even for promotion as Readers it has further recommended their names as Assistant Director and as Readers in the first respondent University; likewise, the 4th and 5th respondents have also been promoted as Senior programmers in the Reader scale even though none of these respondents 2 to 5 possessed M.Phil or Ph.D, thus becoming entitled to be considered for the over all seniority to be considered which is illegal, unlawful, contrary to constitutional rights; that the University has violated all the rules framed under service jurisprudence by giving concession to the respondents No. 2 to 5; that they have not satisfied the further experience in academic activities, research experience, presentation of papers in the seminar or publication of research work in renowned journals etc as prescribed under the scheme and therefore, the first respondent has clearly violated the rules and regulations provided for being considered for promotion.

15.Though on the part of the first respondent university it has attempted to explain its conduct in the case of promoting the respondents 2 to 5 offering reasons to the effect that the Syndicate is the supreme body and it has every right to discuss and decide the matter like promotion of candidates of various cadre, further submitting that the 2nd respondent has submitted his thesis for Ph.D, and is awaiting result; that in the case of the 3rd respondent, since the Norms Committee considered his qualification as equal to the post of Assistant Professor, the Norms Committee recommended to consider him for Reader; that with regard to the 4th and 5th respondents since the Norms Committee recommended their promotion, the Syndicate recommended them for promotion as Readers; they were also been promoted under the scheme and on such grounds praying to dismiss the above Writ Petition still what is essential and vital for consideration is whether respondents No.2 to 5 are fulfilling the eligibility conditions or the norms of eligibility prescribed so as to become eligible for promotion. It is an admitted fact that none of the respondents No.2 to 5 is either a Ph.D or M.D or even M.Phil degree holders or with 10 years experience with condition to acquire Ph.D degree within 3 years and therefore without fulfilling these basic norms of eligibility there is no point in loitering about either the Norms Committee or the Syndicate recommending their names for promotion since these organs are only to see whether the eligibility conditions are strictly observed and not to dilute the conditions to suit the convenience of individuals and therefore, it has to be held that the impugned resolution of the 1st respondent promoting the respondents 2 to 5 as illegal consequently quashing the order of the 1st respondent dated 26.1.97.

16.On the contrary, no convincing or acceptable reasons are able to be assigned on the part of the respondents in the matter of promotion of the respondents 2 to 5 as alleged on the part of the petitioner and therefore, it has to be held that the manner in which the first respondent promoted respondents 2 to 5 not being in consonance with the law, scheme, rules and regulations, such promotions have to be held arbitrary and liable to be quashed.

In result,
(i) The Writ Petition stands allowed.

(ii)The impugned resolution No.97.06(1)dated 21.1.97 of the Syndicate and consequential orders of promotion independently issued by the first respondent, in Proceeding No.ROC.3178/A1/95 dated 26.1.97 in favour of the respondents 2 to 5 herein are quashed.

(iii) No costs.

index:yes
internet:yes
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To

1.The Registrar and Secretary
of the Syndicate
Tamil University
Tamil University Campus
Thanjavur 613 005

2.Thiru S.Subramanian
Asst. Director (Reader Scale)
Department of Adult Education
Tamil University
Thanjavur 5

3.Thiru N.Athiyaman
Reader, Dept. of Archaeology
Tamil University
Thanjavur

4.Thiru S.Baskaran
Senior Programmer (Reader Scale)
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5.Thiru P.Sadasivam
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